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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,569	02/25/2005	Terry Cassaday	56836.40/ejg	3042
33797 7590 07/29/2008 MILLER THOMPSON, LLP Scotia Plaza 40 King Street West, Suite 5800 TORONTO, ON M5H 3S1 CANADA				
EXAMINER				
MCPARTLIN, SARAH BURNHAM				
ART UNIT		PAPER NUMBER		
3636				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/525,569

**Applicant(s)**

CASSADAY, TERRY

**Examiner**

Sarah B. McPartlin

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 16, 19-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16, 19-23 and 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 26, 2006 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 8-12, 16, 19, 21, 22 and 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Gruteser et al. (6,870,477). With respect to claim 1, Gruteser et al. discloses a member (100) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (100) having: moving parts (unlabeled), in the form of a seat or back that is deformable (column 6, line 20), controls (210) for the moving parts, sensors (110) signal feedback mechanisms (225)

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regarding operation of the controls (210) for the moving parts, a power pack (212); and an energy converter, either in the form of "solar cells" (column 5, line 17), or wheels (105) "used to generate electricity" (column 5, line 29), which convert energy to which the member (100) is exposed to electrical energy, wherein said one or more energy converters is connected to the power pack (212) whereby electrical energy flows from the one or more energy converters into the power pack (212) and may be stored therein or utilized for powering said sensors (110), feedback mechanisms (225) and controls (210) for the moving parts.

With respect to claim 2, said energy converter comprises a solar panel provided on an exposed surface of said member given that "solar cells" can be used to provide the seat with electrical energy without the need for wires (column 5, lines 14-16).

With respect to claim 3, further including a sensor used to detect a human heartbeat (column 3, lines 21-27).

With respect to claim 4, a digital display, in the form of a PC with an input device and display (column 6, lines 4-7) also powered by said one or more energy converter (given that the digital display is part of the chair systems (215)) and displaying information from said biorhythm sensor.

With respect to claim 5, said member (100) comprises a chair and said one or more energy converters operable to convert motion of a moveable portion of the chair (i.e. forward and backward motion of the chair back (column 5, lines 23-25) or rotational motion of the wheels (105)) to electrical energy.

With respect to claim 6, Gruteser discloses a member (100) from the group of member consisting of a chair member, a bed member and a lounge member, said member (100) includes an information output device (130)(140)(145)(240) which upon receiving an activation signal from a member sensor (110), outputs instructional information concerning the operation of said member (100), wherein said member comprises a control (240) for a moveable part of said member (i.e. a "vibrator" (column 6, line 23), once activated, said control (240) outputs a signal to the information output device which outputs member positional information, said control (240) outputting information (received by effectors (210)) regarding direction to the use of said control without producing movement of the chair (column 6, lines 7-12), and one or more energy converters which convert energy to which the member is exposed to electrical energy which flows to a power pack (212) and is utilized for powering said information output device (130)(140)(145)(240)

With respect to claim 8, a visual display, in the form of a pc, is also powered by said energy converter, wherein said information output device provides visual feedback using the visual display.

With respect to claim 9, an the power pack (212) is an electrical rechargeable power pack which is charged by said one or more energy converters, said power pack storing the electrical energy and dispersing the electrical energy as required.

With respect to claim 10, said member (100) comprises a chair having rolling casters (105) for generating said electrical energy.

With respect to claim 11, said member comprises a chair and said chair has a back and a seat and a moveable hinge between said back and seat for generating said electrical energy (column 5, lines 20-23).

With respect to claim 12, electrically operated body repositioning means, in the form of deforming seat or back of the chair (column 6, lines 20-21) is powered by said energy converter.

With respect to claim 16, Gruteser discloses a chair (100) having electrical power requirements including information output circuitry (110)(130)(140)(145) for generating information regarding directions to use the controls (210) for the electrical power requirements, and a generator (unlabeled) carried by said chair (100) for converting energy to which the chair is exposed to electrical energy for powering said electrical power requirements, whereby said generator converts rolling motion of said chair (100) to electrical energy for meeting said electrical power requirements and wherein said chair (100) includes moveable casters (105) and said generator is disposed in said casters (105) for converting motion of said casters (105) to said electrical energy for powering said information output circuitry (110)(130)(140)(145) to generate information regarding use of the controls (210) for the electrical power requirements.

With respect to claim 19, further including a rechargeable battery (212) carried by said chair (100) wherein said generator recharges said battery (212), said battery powering said electrical power requirements of said chair.

With respect to claim 21, Gruteser discloses a chair (100) comprising an information output device (110)(130)(140), which outputs information concerning

controls (210) for moving the chair and rolling casters (105) for generating said electrical energy for powering said information output device (110)(130)(140).

With respect to claim 22, Gruteser discloses a chair (100) comprising an information output device (110)(130)(140) which outputs instructive information concerning the use of controls (210), an energy converter, in the form of "a means for producing electricity based upon the linear motion of elements" (column 5, lines 24-25), and a moveable hinge which facilitates movement when the chair occupant leans back or forward causing elements of the chair to move with respect to each other, wherein said energy converter converts energy for powering said information output device (110)(130)(140) so as to output information concerning the use of the chair controls (210).

With respect to claim 25, Gruteser discloses a member (100) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (100) including moving parts (unlabeled) and controls (210) for the moving parts, and including information circuitry (110)(130)(140)(145) which outputs instructional information regarding the operation of the controls (210) about said member (100) and an energy converter (105) for converting energy to which the member is exposed to electrical energy for powering said information circuitry (110)(130)(140)(145), said moving parts and said controls for the moving parts.

With respect to claim 26, the energy converter powers the moving parts and the controls for the moving parts (column 4, line 55).

With respect to claims 27 and 28, the feedback mechanism, which includes remote systems (225), may include a PC that has voice activated software and a display. Therefore the feedback mechanism is of audible or visual form.

With respect to claim 29, Gruteser discloses a member (100) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (100) including moving parts (unlabeled), in the form of a seat or back that is deformable (column 6, line 20), controls (210) for the moving parts, a power pack (212), and an energy converter, either in the form of "solar cells" (column 5, line 17), or wheels (105) "used to generate electricity" (column 5, line 29), for converting energy to which the member (100) is exposed to electrical energy for powering the controls (210) or for storage of electrical energy to the power pack (212).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Sparks (6,204,767). As disclosed above, Gruteser disclosed all claimed elements except the provision of audio feedback from the control.

Sparks teaches the use of audio feedback, output from speaker element (10), triggered by control unit (34)(36)(38)(40).



It would have been obvious to one of ordinary skill in the art at the time of the instant invention to incorporate a sound signaling system into the chair (100) disclosed by Gruteser. Such a modification would enable people located in the vicinity of the seat to become aware of a situation regarding the seat occupant.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Burt (US 2002/0056709). As disclosed above, Gruteser reveals all claimed elements with the exception of said body-repositioning means comprising a lumbar adjustment member controlled by a timer.

Burt teaches the use of lumbar supports (20) that include heated electrically conductive elastomeric materials. The expansion and contraction of the lumbar elements are traditionally controlled by a timer (paragraph [0004]) and provide a vibrating motion.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add lumbar support elements to the seat disclosed by Gruteser. Such a modification would ensure that seat occupants do not get fatigued backs while sitting in the seat.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477). As disclosed above, Gruteser et al. discloses all claimed elements with the exception of a chair having both a movement generator and a solar power generator for supplying electricity to a chair's electronic display.

Gruteser does teach the use of a solar panel or the use of a movement generator. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use both energy generation mechanisms in a single chair since doing so would merely increase the performance of the seat.

8. Claims 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Deaton (2,838,095). As disclosed above, Gruteser et al. discloses all claimed elements with the exception of a hinge located between said back and said seat or between a seat and a pedestal.

Deaton discloses a hinge (16) located between a seat (S) and a back (34).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to locate the hinge in the seat disclosed by Gruteser in the position taught by Deaton. Such a hinge is well known in the art for providing user adjustability and improved comfort.

9. Claims 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Bell (2,310,346). As disclosed above, Gruteser et al. discloses all claimed elements with the exception of a hinge located between said back and said seat or between a seat and a pedestal.

Bell discloses a hinge (94) located between a seat (98) and a pedestal (10).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to locate the hinge in the seat disclosed by Gruteser in the position

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taught by Bell. Such a hinge is well known in the art for providing user adjustability and improved comfort.

***Response to Amendment/Arguments***

10. Applicant request for continue examination, claim amendments and arguments filed on June 26, 2006 have been considered in their entirety.

Applicant argues that Gruteser et al. does not disclose a chair, bed or lounge having a power pack means for storing and distributing electrical power. The Examiner contends that element (100) constitutes a chair member. Energy to which the chair member is exposed (i.e. the movement that occurs when a chair occupant leans back or forward, or the rotational movement of the wheels (105)) may be used to generate electricity. This electricity is used to provide the seating platform with electrical energy without the needs for wires. Furthermore, the electricity may be stored in batters (212) as shown in block diagram (2). The Examiner maintains that batteries constitute a power pack. The advantages of Applicant's power pack over traditional batteries does not appear to create any concrete limitations in the claims which distinguish over the battery disclosed in the prior art.

Applicant further argues that the claimed invention has multiple means of generating energy. This limitation does not appear to be included in the claims. The claims require at least one energy converter. The wheels, moveable back and solar systems, used singly, as disclosed by Gruteser et al. constitute "at least one" energy converter and meet the limitations of the claim.

Applicant further argues that neither Gruteser nor Sparks teaches audio feedback for the purpose of providing directions for the use of a control for a moveable part of said chair. The claim simply requires that the information output device provides

audio feedback. Claim 7 does not specifically state that the audio feedback is used to provide direction to the control for a moveable part of the chair. Applicant is relying on details/limitations that are not provided in the claims. Even if the claim were to require that the audio feedback provide directions for use of a control for a moveable part of said chair, Gruteser discloses speech recognition capabilities, which would equate to an audio feedback loop for providing instructions to the control of the moveable parts.

Applicant further argues that Burt does not disclose a timer. The Examiner would like to draw Applicant's attention to paragraph [0004] where Burt explains that traditionally, a timer can be used to control a controller which controls a lumbar support. While the device claimed by Burt does not utilize a timer, he teaches that the use of a timer is well known and conventional in the art.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Primary Examiner  
Art Unit 3636

SBM  
July 23, 2008